

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 ANTOINETTE B. CINCOTTA, State Bar No. 120482
Deputy Attorney General
4 110 West "A" Street, Suite 1100
San Diego, CA 92101
5
6 P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2095
7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2006-07-0922

13 NANCY CUNNINGHAM
1050 Crest Drive
14 Encinitas, CA 92024-4042

A C C U S A T I O N

2009-34

15 Registered Nurse License No. 228622
Public Health Nurse License No. 18418

16
17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
22 Department of Consumer Affairs.

23 2. On or about September 30, 1972, the Board of Registered Nursing issued
24 Registered Nurse License Number 228622 to Nancy Cunningham (Respondent). The license
25 will expire on November 30, 2009 unless renewed.

26 3. On or about June 29, 1973, the Board of Registered Nursing issued Public
27 Health Nurse License Number 228622 to Nancy Cunningham (Respondent). The license will
28 expire on November 30, 2009 unless renewed.

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

5
6
7
8
9
0
1
2
3
4
5
6
7
8

6
7
8
9
0
1
2
3
4
5
6
7
8

8
9
0
1
2
3
4
5
6
7
8

9
0
1
2
3
4
5
6
7
8

0
1
2
3
4
5
6
7
8

3
4
5
6
7
8

4
5
6
7
8

8

impairs his or her ability to conduct with safety to the public the practice authorized by his or her license. . . .”

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Excessive Use of Alcohol)

10. Respondent is subject to disciplinary action under sections 2761, subdivision (a) and 2762, subdivision (b) in that Respondent used alcohol to the extent or in a manner dangerous or injurious to herself and/or the public and/or to the extent that such use impaired her ability to conduct with safety to the public the practice of nursing. The circumstances are as follows:

11. On or about February 10, 2005, Respondent was employed by KP On Call, L.L.C. and was working as a registered nurse at Kaiser Permanente. Several staff members noted a strong smell of alcohol on Respondent while at work. Respondent was referred to the Employee Assistance Program due to the odor of alcohol on her while at work.

12. On or about May 13, 2005, Respondent was working as a registered nurse at Kaiser Permanente. Again staff members noted a strong smell of alcohol on Respondent. That same day, Respondent's employer administered a "for cause" drug/alcohol screen on Respondent that tested positive for alcohol.

13. On or about June 1, 2005, Respondent signed a “Last Chance Chemical Dependency Rehabilitation Agreement” with her employer, KP On Call, L.L.C. Respondent was off work for outpatient alcohol dependency rehabilitation treatment from May 21, 2005 through June 15, 2005.

14. On or about October 21, 2005, Respondent was working as a registered nurse at Kaiser Permanente. Respondent submitted to a random drug/alcohol test that was positive for alcohol.

1 15. On or about October 26, 2005, Respondent was terminated by KP On Call,
2 L.L.C. for violation of the Last Chance Chemical Dependency Rehabilitation Agreement.

3 16. On or about November 15, 2006, Respondent was interviewed by an
4 investigator from the Board. During this interview, Respondent admitted:

5 a. She has had a problem with alcohol since around the time she was in
6 college;

7 b. Co-workers noticed alcohol on her breath a couple of times but it was not
8 until around February 2005 that she was referred to the company Employee Assistance Program
9 for her alcohol use;

10 c. Her relationship with her husband is much better now that she is sober and
11 going to the AA meetings has helped her a great deal; and

12 d. She is an alcoholic.

13 PRAYER


14 WHEREFORE, Complainant requests that a hearing be held on the matters herein
15 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

16 1. Revoking or suspending Registered Nurse License No. 228622 and Public
17 Health Nurse License No. 18418 issued to Nancy Cunningham;

18 2. Ordering Nancy Cunningham to pay the Board of Registered Nursing the
19 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
20 Professions Code section 125.3;

21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: 8/13/08

23 
24 RUTH ANN TERRY, M.P.H., R.N.
25 Executive Officer
26 Board of Registered Nursing
27 Department of Consumer Affairs
28 State of California
Complainant